

To: Strauss, Linda[Strauss.Linda@epa.gov]
Cc: Beck, Nancy[Beck.Nancy@epa.gov]; Wise, Louise[Wise.Louise@epa.gov]; Jakob, Avivah[Jakob.Avivah@epa.gov]
From: Morris, Jeff
Sent: Mon 9/18/2017 2:56:41 PM
Subject: Re: due this week - FW: WALL STREET JOURNAL - H. VOGT - Looking for comment on TSCA implementation

I think the highlighted text is a useful addition to the legacy use discussion.

Sent from my iPad

On Sep 18, 2017, at 10:37 AM, Strauss, Linda <Strauss.Linda@epa.gov> wrote:

Keep or delete yellow?? OGC is fine either way – they “don’t see a compelling legal reason to drop it.” I have struck out some. I think it gives more good information.

See below email chain to see OGC edits/comments. Thanks.

Question: I'm basically looking at the Trump administration's approach to TSCA implementation, focusing on asbestos as a case study. I'm interested in talking to someone who can give me some details on priorities, and particularly looking at the issue of what is and isn't included in the scoping documents (what's involved in a comprehensive review, the viability of a ban, decision not to prioritize legacy uses, etc). I'd also of course like to get comment on the lawsuits filed by environmental groups.

Response: As required in TSCA, the scope documents identify the hazards, exposures, conditions of use, and potentially exposed or susceptible subpopulations that EPA expects to consider in the risk evaluation. See: <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/asbestos-scope-document-and-supplemental-files>.

EPA interprets the statutory mandate to conduct risk evaluations and any corresponding risk management to focus on uses for which manufacturing, processing, or distribution in commerce is intended, known to be occurring, or reasonably foreseen to occur (i.e., is prospective or on-going), rather than reaching back to evaluate the risks associated with legacy uses, associated disposal, and legacy disposal, and interprets the definition of “conditions of use” in that context.

For instance, asbestos is no longer manufactured or processed for use in insulation

and pipe wrapping, and it is not intended or foreseen to be manufactured or processed for that use (i.e., legacy uses), and EPA considers that such circumstances generally fall outside of the circumstances Congress intended EPA to consider in risk evaluations under section 6. (In part, this is because EPA does not have the authority under TSCA section 6 to directly regulate non-commercial use. For example, EPA does not have the authority under section 6 to compel private citizens to remove asbestos insulation from their attics/walls, or to remove the asbestos-containing pipe wrap from their basements. That said, EPA may consider background exposures from legacy use, associated disposal, and legacy disposal as part of an assessment of aggregate exposure or as a tool to evaluate the risk of exposures resulting from non-legacy uses.)

The scoping documents are open for comment until Sept 19, 2017. EPA will publish and take public comment on a subsequent problem formulation document which will refine the current scope, as an additional interim step, prior to publication of draft risk evaluations. These problem formulation documents are expected to be released within approximately 6 months of publication of the scope. (EPA would further note that timing constraints for the first 10 chemical risk evaluations resulted in scope documents that are generally not as refined or specific as EPA would intend for future scope documents. For future risk evaluations, EPA also will provide an opportunity for public comment on a draft scope document before finalizing.

Regarding your request for comment on lawsuits, our policy is not to comment on pending litigation.

From: Mclean, Kevin
Sent: Monday, September 18, 2017 10:01 AM
To: Grant, Brian; Strauss, Linda; Anderson, Steve; Celeste, Laurel
Cc: Morris, Jeff
Subject: RE: WALL STREET JOURNAL - H. VOGT - Looking for comment on TSCA implementation

Sounds fine.

From: Grant, Brian
Sent: Monday, September 18, 2017 9:59 AM
To: Strauss, Linda <Strauss.Linda@epa.gov>; Anderson, Steve <Anderson.Steve@epa.gov>; Celeste, Laurel <celeste.laurel@epa.gov>; Mclean, Kevin <Mclean.Kevin@epa.gov>
Cc: Morris, Jeff <Morris.Jeff@epa.gov>

Subject: RE: WALL STREET JOURNAL - H. VOGT - Looking for comment on TSCA implementation

Sorry Linda – I did not get to this Friday. This generally looks good to me, with a couple of comments below. I'm inclined to agree about dropping the longer parenthetical about authority over non-commercial use because it doesn't look necessary to respond to the question, although it looks accurate so I don't see a compelling legal reason to drop it.

Steve: can you please take a look? Laurel: probably less important, but if you could look quickly as well, that would be great.

Kevin: note the final sentence: "Regarding your request for comment on lawsuits, our policy is not to comment on pending litigation." This sounds right to me, but please consider whether you agree. Thanks.

Brian Grant

EPA Office of General Counsel

202-564-5503

From: Strauss, Linda

Sent: Monday, September 18, 2017 9:19 AM

To: Grant, Brian <Grant.Brian@epa.gov>

Cc: Morris, Jeff <Morris.Jeff@epa.gov>

Subject: Fwd: WALL STREET JOURNAL - H. VOGT - Looking for comment on TSCA implementation

OK to go?

Sent from my iPhone

Begin forwarded message:

From: "Strauss, Linda" <Strauss.Linda@epa.gov>

Date: September 15, 2017 at 1:12:17 PM EDT

To: "Grant, Brian" <Grant.Brian@epa.gov>

Subject: WALL STREET JOURNAL - H. VOGT - Looking for comment on TSCA implementation

Brian, I combined already-approved Udall + previous press responses but can you look b/c of pending litigation??

I might want to delete parentheticals b/c it's too defensive and reporter is not asking for all that. This OK?

Question: I'm basically looking at the Trump administration's approach to TSCA implementation, focusing on asbestos as a case study. I'm interested in talking to someone who can give me some details on priorities, and particularly looking at the issue of what is and isn't included in the scoping documents (what's involved in a comprehensive review, the viability of a ban, decision not to prioritize legacy uses, etc). I'd also of course like to get comment on the lawsuits filed by environmental groups.

Response: As required in TSCA, the scope documents identify the hazards, exposures[**BG, OGC**] , and conditions of use[**BG, OGC**] and potentially exposed or susceptible subpopulations that EPA expects to consider in the risk evaluation. See: <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/asbestos-scope-document-and-supplemental-files>.

EPA interprets the statutory mandate to conduct risk evaluations and any corresponding risk management to focus on uses for which manufacturing, processing, or distribution in commerce is intended, known to be occurring, or reasonably foreseen to occur (i.e., is prospective or on-going), rather than reaching back to evaluate the risks associated with legacy uses, associated disposal, and legacy disposal, and interprets the definition of "conditions of use" in that context.

Asbestos is no longer manufactured or processed for use in insulation and pipe wrapping, and it is not intended or foreseen to be manufactured or processed for that use (i.e., legacy uses), and EPA considers that such circumstances generally fall outside of the circumstances Congress intended EPA to consider in risk evaluations under section 6. (In part, this is because EPA does not

have the authority under TSCA section 6 to directly regulate non-commercial use. For example, EPA does not have the authority under section 6 to compel private citizens to remove asbestos insulation from their attics/walls, or to remove the asbestos-containing pipe wrap from their basements. That said, EPA may consider background exposures from legacy use, associated disposal, and legacy disposal as part of an assessment of aggregate exposure or as a tool to evaluate the risk of exposures resulting from non-legacy uses.)

The scoping documents are open for comment until Sept 19, 2017. EPA will publish and take public comment on a subsequent problem formulation document which will refine the current scope, as an additional interim step, prior to publication of draft risk evaluations. These problem formulation documents are expected to be released within approximately 6 months of publication of the scope. (EPA would further note that timing constraints for the first 10 chemical risk evaluations resulted in scope documents that are generally not as refined or specific as **[BG, OGC]** EPA would intend for future scope documents ~~anticipated~~. For future risk evaluations, EPA also **[BG, OGC]** will [Note this this is required by the RE rule] ~~expects to~~ provide an opportunity for public comment on a draft scope document before finalizing.)

Regarding your request for comment on lawsuits, our policy is not to comment on pending litigation.

From: Daguillard, Robert

Sent: Friday, September 15, 2017 11:23 AM

To: Strauss, Linda <Strauss.Linda@epa.gov>; Dunton, Cheryl <Dunton.Cheryl@epa.gov>; Pierce, Alison <Pierce.Alison@epa.gov>; Blair, Susanna <Blair.Susanna@epa.gov>

Subject: LINDA/OPPT: WALL STREET JOURNAL - H. VOGT - Looking for comment on TSCA implementation

OUTLET: THE WALL STREET JOURNAL

REPORTER: HEIDI VOGT

DDL: WEEK OF 9/18

Morning all,

The reporter and I spoke before she sent her questions, so she understands it's unlikely we'll comment on pending litigation. She says she's spoken to industry groups and would like to have someone on the phone, preferably today, but she understands whatever response we can send, in whatever format, may have to wait. She's looking to publish in the next week or so. Let me know how you'd like to approach it.

Cheers, R.

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Good talking to you on the phone. As I was saying, I'm basically looking at the Trump administration's approach to TSCA implementation, focusing on asbestos as a case study. I'm interested in talking to someone who can give me some details on priorities, and particularly looking at the issue of what is and isn't included in the scoping documents (what's involved in a comprehensive review, the viability of a ban, decision not to prioritize legacy uses, etc). I'd also of course like to get comment on the lawsuits filed by environmental groups.
